

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Rules and Policies Concerning Ownership of
Radio Broadcast Stations in Local Markets

MM Docket No. 01-317

Definition of Radio Markets

MM Docket No. 00-244

REPLY COMMENTS OF RADIO ONE, INC.

Radio One, Inc. (“Radio One”), hereby submits its Reply Comments in response to the Notice of Proposed Rule Making (“NPRM”) released by the Federal Communications Commission (“FCC” or “Commission”) on November 9, 2001 in the above-captioned proceeding.¹ In the NPRM, the Commission seeks to evaluate the effects on the public of consolidation in the radio industry following the relaxation of the FCC’s numerical limits on station ownership, as required by Congress in Section 202(b) of the Telecommunications Act of 1996 (the “1996 Act”).²

I. INTRODUCTION

Radio One is the largest African-American owned radio broadcasting company in the United States (the nation’s seventh largest radio broadcasting company), and the largest broadcaster primarily targeting African-American and urban listeners. Radio One, a publicly traded company, has been in the radio broadcast business since 1980, and currently owns and/or

¹ FCC 01-329 (rel. Nov. 9, 2001).

² Pub. L. No. 104-104, 110 Stat. 110 (1996).

operates 65 radio stations located in 22 of the largest markets in the United States.

As explained in its Comments filed March 27, 2002, and in these Reply Comments, it is Radio One's position that any decrease in the number of radio stations in a market that an entity may own below the numerical limits set forth in Section 202(b) of the 1996 Act would inappropriately shut out mid-sized companies like Radio One from achieving the levels of group ownership contemplated by the 1996 Act and conflict with the Act's deregulatory goals. Moreover, Radio One continues to support the premise that consolidation allows group owners to achieve economies of scale through the common operation of multiple stations in a local market; which, in turn, allow group owners like Radio One to enhance diversity and competition, by offering a wider range of program formats to serve specialized audiences. At the same time, however, Radio One also recognizes that while programming diversity has increased and thrived under consolidation, ownership diversity, which also serves the public interest, has suffered. Radio One, therefore, supports the National Association of Black Owned Broadcasters, Inc. ("NABOB") request in its Comments filed in this proceeding, that the Commission promote those aspects of diversity which will lead to ownership of radio facilities by a diverse set of owners, particularly minority owners.

II. BECAUSE CONSOLIDATION HAS CAUSED THE NUMBER OF MINORITY OWNERS IN THE RADIO INDUSTRY TO DECREASE, THE COMMISSION MUST TAKE SPECIFIC ACTION IN THESE PROCEEDINGS TO PROMOTE MINORITY OWNERSHIP

Radio One supports NABOB's position that the Commission should adopt the "promotion of minority ownership of radio facilities as a primary policy objective in this proceeding". In its Comments, NABOB demonstrated that since consolidation the number of minority owners has decreased by more than 13%.³ NABOB further suggests that this negative trend will continue. Radio One agrees with NABOB's contention that the Commission must take specific action to stave off this negative result, and therefore supports some of the steps that NABOB has recommended the Commission take to promote minority ownership. For example, Radio One agrees that the Commission should eliminate its policy of granting 6, 12 and 18 month waivers to parties exceeding ownership limit rules in order to find potential buyers. Radio One further agrees that such parties should be required to file applications to sell its stations to third party buyers simultaneously, with their underlying assignment and transfer applications. Like NABOB, Radio One believes that such measures are necessary to ensure that "spin-off" sales receive the same level of scrutiny as the underlying assignment or merger application. Among other things, such scrutiny would give the Commission ample time to not only assess whether sellers are "parking" stations to circumvent ownership limits, but also to determine the impact the impending sale or merger will have on minority ownership as a whole. In addition, by eliminating such waivers, it would prevent sellers from otherwise thwarting the ownership rules, and prolonging the time period in which they would have to comply, while reaping the benefit of an additional 6 to 18 months of revenue from a station that they would otherwise have to divest under the ownership rules.

Radio One also supports NABOB's recommendation that the Commission consider a 40/60 market share screen for "flagging" potential excessive consolidation in a market instead of the current 50/70 screen. More specifically, it is Radio One's recommendation that rather than applying the current 50/70 screen to all markets across the board, the Commission should permit, perhaps on a limited "case-by-case" basis, the market share screen to be reduced to a 40/60 ratio

³ NABOB Comments, page 3. ("the number of minority owners has decreased from 173 in 1995 to 149 in 2001").

(or lower), particularly in those smaller markets where small operators with small stations predominate. Because smaller markets (which is where the majority of minority owned broadcasters operate) generally have fewer stations and smaller populations, a reduction in the market share screen is necessary to ensure that these small operators will remain competitive with the larger broadcast companies in those same markets.

Finally, Radio One also supports NABOB'S recommendation that the Commission should continue to urge Congress to reinstate the minority tax certificate policy.

III. IN THESE PROCEEDINGS THE COMMISSION SHOULD BE AS CONCERNED WITH THE PROMOTION OF VIEWPOINT AND SOURCE DIVERSITY AS WITH PROGRAMMING DIVERSITY.

Through its ownership of clusters of radio stations in various markets and the economic efficiencies that result, Radio One has been able to serve a variety of demographic segments within the African-American population. Without the ability to operate multiple stations in a market, Radio One would not have been able to take the risks associated with introducing unique programming formats, which may draw smaller aggregate audiences than more traditional formats. This result has not only been positive for Radio One, but it has been a positive result for the radio broadcast industry as a whole. But while consolidation has arguably led to an increase in programming diversity, Radio One also agrees with NABOB's contention that the Commission must also give significant consideration to viewpoint and source diversity in these proceedings. Radio One also concurs with NABOB that viewpoint and source diversity (in addition to programming diversity) can only be achieved through greater ownership diversity.

As NABOB correctly asserts, diversity is one of the guiding principles of the Commission's local ownership rules. In its Comments, Radio One noted that Congress has also explicitly directed the Commission to "promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by . . . disseminating licenses among a wide variety of applicants, including . . . businesses owned by members of minority groups and women."⁴ Radio One further noted in its Comments that the 1996 Act similarly requires the FCC to identify and eliminate market entry barriers for small

⁴ 47 U.S.C. § 309(j). This section was added to the Communications Act in 1993 by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 6002(a), 107 Stat. 312, 387 (1993).

business owners, including minorities, and in so doing, to “seek to promote the policies and purposes of th[e Communications] Act favoring diversity of media voices.”⁵ It is Radio One’s position, therefore, that to achieve the type of diversity that Congress has charged the Commission with promoting, the Commission’s policies must go beyond programming diversity, and meaningfully address viewpoint and source diversity.

As NABOB has correctly pointed out, even a single owner with many different entertainment formats in a market will not likely provide the type of “diverse and antagonistic sources” of information that has been or should be at the heart of the Commission’s diversity goals. Ownership diversity, which invariably leads to greater viewpoint and source diversity, will reduce the risk that one radio group will have an inordinate influence on the free flow of ideas. Ownership diversity will also decrease the risk that such a radio group will control public discourse on important issues. Consequently Radio One fully supports NABOB’s recommendation that the Commission should proceed in its analysis of the issues in this proceeding with the objective of adopting policies that will lead to ownership of radio facilities by a diverse set of owners, particularly minority owners.

For the foregoing reasons, Radio One submits that the Commission should implement those recommendations first submitted by NABOB in its Comments, and which have been discussed in these Reply Comments.

Respectfully submitted by,

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⁵ 1996 Act § 257.

